

## Andrew Jackson to Robert Young Hayne, February 8, 1831, from Correspondence of Andrew Jackson. Edited by John Spencer Bassett.

TO ROBERT Y. HAYNE.1

1 Copy.

Washington, February 8, 1831.

*My Dear Sir*, I have read your letter of the 4 inst. The Gentleman presented by you for the appointment of District Atto. is respectably recommended, and the confidence reposed in you is sufficient to induce me to believe that he is as you represent, fully competent to fulfil the duties of the office; There are others, however, who are also well recommended. You suggest that I may entertain objections to the appointment of your friend, and that they arise from the consideration "that he is of the party in S Carolina, who assist and maintain State rights; and express a desire to be informed if this class of your fellow Citizens are to be excluded from a fair participation in offices. Permit me to premise, that in appointing persons to office it is not incumbent on the President to assign the reasons which govern his conduct. To appoint one, and reject another, is by the Constitution left to his discretion and if he errs in the former case, the Senate affords a safe guarantee. It is by his acts that he is in this respect to be judged by his constituents.

Sensible of the propriety of this course, and the importance of its pr[e]servation to the salutary action of the executive power, it has been with great difficulty that I have brought myself to depart from it, in the case under consideration. The peculiar circumstance and the sincere personal respect and esteem which I entertain for you, induce me to make the explanation for your personal satisfaction. For the rights of the states, no one has a

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higher regard and respect than myself, none would go farther to maintain them: It is only by maintaining them faithfully that the Union can be preserved.

But how I ask, is this to be effected? certainly not by conceding to one state authority to declare an act of Congress void, and meet all the consequences and hazard that such a course would produce, far from it; there is a better remedy, one which has heretofore proved successful in the worst of times, and all must admit its power. If Congress, and the Executive, feeling power, and forgetting right, shall overleap the powers the Constitution bestow, and extend their sanction to laws which the power granted to them does not permit, the remedy is with the people—not by avowed opposition—not thro open and direct resistance, but thro the more peaceful and reasonable course of submitting the whole matter to them at their elections, and they by their free suffrage at the polls, will always in the end, bring about the repeal of any obnoxious laws which violate the constitution. Such abuses as these cannot be of long duration in our enlightened country where the people rule. Let all contested matters be brought to that tribunal, and it will decree correctly.

This is, in general political questions, the only course that should be pursued, and which the constitution contemplates. That a state has the power to nulify the Legislative enactments of the General Government I never did believe, nor have I ever understood Mr. Jefferson to hold such an opinion. That ours is a Government of laws, and depends on a will of 18 the majority, is the true reading of the Constitution; the time I hope is far distant when the abuse of power on the part of Congress will be so great as to justify a state to stand forth in open violation and resistance to its measures; In all Republics the voice of a Majority must prevail, consent to this, and act upon it, and harmony will prevail; oppose it, and disagreement, difference and danger will certainly follow. assert that a state may declare acts passed by congress inoperative and void, and revolution with all of its attendant evils in the end must be looked for and expected—compromise, mutual concessions, and friendly forbearance between different interests, and sections of our happy Country must be regarded and nourished by all who desire to perpetuate

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the blessings we enjoy. These being my opinions, religiously entertained, situated as I am, charged with the Executive of the laws, and the preservation of the union and the Constitution, it could not be expected that I would select any one to prosecute for a violation of them, who holds that a portion of our revenue laws is not binding, and who would declare that the Union should be dissolved rather than these laws should be permitted to be enforced.

I would be highly blamable to appoint any man however well qualified he might be in other respects, Attorney for the District whose duty it would be to collect the Bonds given for the revenue to be paid to the Govrmt. after he had declared the law unconstitutional, and that disunion was preferable to submission to them. Mr. Findley is represented to me, to have expressed himself substantially as I have stated, surely then, if this be true, it could not be expected by any one of my friends that I could appoint him attorney to prosecute defaulters under these laws.

When the ground is moreover taken deliberately that the Bonds given to the Government for revenue are void and that their collection may be successfully resisted, could it be regarded in the faithful discharge of my duty to select for an office to which the collection of such bonds will belong a gentleman however respectable whose honest opinions are opposed to the liability which it might become his official duty to enforce; I think not and in coming to that conclusion I am not influenced by any want of confidence in the personal character of Mr. Findley, and much less by any unfriendly feeling towards him or his supporters. I understand that Mr. Findley's opinions are of that character and so believe, I think I shall better perform my duty by selecting one whose views upon this subject are more in unison with the interests of the Government.

You ask me whether it is to be considered as an insuperable objection to any Gentleman receiving an appointment to office under the Federal Govmt. that he belongs to state right party in S Carolina; This is a broad question, and goes far beyond the point under consideration. I will however in the spirit which dictates this communication reply to it. I

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proscribe no man for an honest difference of opinion, and I shall be the last to withhold from any portion of my fellow Citizens the privileges of the Constitution for an honest exercise of opinions which they sincerely entertain and cherish from good motives. I understand your reference to the State right party in S Carolina and recognize among those who are thus discribed many of my earliest and warmest friends—men who have always been true to honor, and their country, and who I am persuaded could never knowingly harbor a thought that is adverse to the welfare of their country. neither they nor those who are like them will ever, I assure you, recieve any treatment at my hands which candidly and dispasionately considered can with any justice be regarded as proscription. I may differ with them but I will do them justice: No official or personal act will give me more pleasure than to endeavour to heal the breaches which have unhappily been made in your society. I have on more occasions than one shewn that I entertain no such views in regard to them as are refered to by your question, and sincerely hope they may not be the last. I have now in frankness and in the spirit of sincere friendship given you the reasons which influence me in this matter, in doing so, I have departed widely from the course I have, in conformity with what I understand to have been that of my prede[ce]ssors, laid down for my government. In what I have said it is not my intention to call in question the motives of any who may entertain opinions different from those which I have felt myself called upon to express to you in this familiar way, or to involve myself in a discusion of their respective merits. I therefore trust so far as it regards the latter, the matter will be suffered to stop here.<sup>2</sup>

<sup>2</sup> To this letter Hayne replied in a long letter dated Feb. 14. He protested against any imputation against the patriotism or character of Finley, and argued at length against the policy of excluding states' rights men in South Carolina from federal office. Jackson took no further notice of the matter.

I am very respectfully yr most obt servt

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PS. I will postpone the nomination until the 20th inst.